

IN THE CIRCUIT COURT OF THE COUNTY OF ST. LOUIS
STATE OF MISSOURI

Kozeny & McCubbin, L.C., as trustee,)
Plaintiff,) Case No. 10SL-CC04343
vs.) Division No. 18
Polly A. Balsley)
Serve: 3396 Sunriver Rd, Apt 216,)
Bullhead City, AZ, 86429)
Unknown Spouse of Polly A. Balsley)
Serve: Hold for Service by Publication)
Wells Fargo Bank, NA)
Serve: Hold service at this time.)
Renovation & Restoration)
Specialists, LLC)
Serve: Daniel Thorman, Registered Agent)
7936 Campbell)
Kansas City, MO 64131)
Department of the Treasury -)
Internal Revenue Service)
SERVE AT:)
The U.S. Attorney's Office for the)
Eastern District of Missouri)
111 South 10th Street, 20th Floor)
St. Louis, MO 63102)
And the Unknown Heirs, Devisees,)
Grantees, Assigns, Donees, Alienees,)
Legatees, Administrators, Executors,)
Guardians, Mortgagees, Trustees, and)
Legal Representatives and all other)
person, corporations or successors)
claiming by, through or under any one or)
more of the afore named defendants)
Serve: Hold for Service by Publication)

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Plaintiffs Exhibit

A

And all other persons and entities)
unknown, claiming any right, title, estate,)
lien, or interest in the real property)
described in this Petition, adverse to)
Plaintiff's ownership, or any cloud on)
Plaintiff's title thereto,)
Serve: Hold for Service by Publication)
Defendants)

SECOND AMENDED PETITION IN INTERPLEADER

COMES NOW, Kozeny and McCubbin, L.C., Plaintiff, and for its Petition in
Interpleader, states:

1. Plaintiff is a Missouri Limited Liability Company in good standing, with its principal place of business in St. Louis County, State of Missouri.
2. Venue is proper in St. Louis County because the interpleader funds are located in this St. Louis County.
3. This is an interpleader action, under Rule 52.07.
4. On or about March 13, 2003, Polly A. Balsley, A single Person, entered into, executed and delivered to Wells Fargo Home Mortgage, Inc., her Deed of Trust which was duly recorded March 17, 2003, in Instrument No. 2003J0031367 in the real estate records of Jackson (Independence) County, State of Missouri, pertaining to property known and numbered as 308 Bridlewood Lane SW, Lees Summit, MO 64081. A true and correct copy of said Deed of Trust is attached hereto and incorporated herein as Plaintiff's Exhibit A.
5. On or about August 25, 2010, an Appointment of Successor Trustee was executed by Wells Fargo Bank, National Association, which appointed Kozeny & McCubbin, L.C. as successor trustee for the subject Deed of trust, and said Appointment of Successor Trustee was recorded on August 26, 2010 in Instrument No. 2010E0082698 in the real estate records of

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Jackson (Independence) County, State of Missouri. A true and correct copy of said Appointment of Successor Trustee is attached hereto and incorporated herein as Plaintiff's Exhibit B.

6. On September 21, 2010, having previously advertised said sale according to law, Kozeny & McCubbin, L.C., conducted a foreclosure sale pursuant to the terms of said Deed of Trust.

7. After satisfaction of the debt secured by said Deed of Trust as well as payment of all costs related to said sale, there remains excess funds in the amount of \$23,552.45.

8. Defendants are, or may be, adverse claimants to all or part of the funds in Plaintiff's custody, identified above.

9. The various and potentially conflicting claims of Defendants to the funds are such that Plaintiff is not able to determine with certainty which parties have a right to the funds and, as a result, may be exposed to double or multiple liability unless interpleader is allowed.

10. Plaintiff claims the right to a portion of the Excess Funds, in that Plaintiff has incurred attorney fees and costs in the preparation of this interpleader suit, as a result of Plaintiff's services as Successor Trustee under the above described Deed of Trust, which Deed of Trust provides, upon default, for the collection of reasonable costs and attorney fees.

WHEREFORE, Plaintiff prays for judgment:

A. That each of the Defendants be restrained from instituting any separate action against Plaintiff for the recovery of the aforesaid funds, or any part thereof;

B. That the Defendants be required to interplead herein and settle among themselves their rights, if any, to the subject funds;

C. That, upon payment into the Court of the Excess Funds after crediting to Plaintiff his costs and attorneys fees at the rate of \$175.00 per hour, as incurred by Plaintiff in this action, Plaintiff be discharged from all liability to any of the Defendants in the premises;

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D. For an order allowing Plaintiff its reasonable costs and attorney's fees at the rate of \$175.00 per hour, as incurred by Plaintiff in this action, as provided for in the subject Deed of Trust and stated herein above; and

E. For such other and further relief that may be just in the premises.

KOZENY & MCCUBBIN, L.C.

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ATTORNEYS FOR PLAINTIFF

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